

VZCZCXRO1958
RR RUEHGA RUEHGD RUEHHA RUEHHO RUEHMC RUEHMT RUEHNG RUEHNL RUEHQ
RUEHRD RUEHRS RUEHTM RUEHVC
DE RUEHME #3513/01 3331929
ZNR UUUUU ZZH
R 281929Z NOV 08
FM AMEMBASSY MEXICO
TO RUEHMD/AMEMBASSY MADRID 0499
RUEHC/DEPT OF LABOR WASHINGTON DC
RUEHC/SECSTATE WASHDC 4143
INFO RUCNCAN/ALL CANADIAN POSTS COLLECTIVE
RUEHXC/ALL US CONSULATES IN MEXICO COLLECTIVE
RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RHMFISS/CDR USSOUTHCOM MIAMI FL
RUEHBS/USEU BRUSSELS
RHEHAAA/NSC WASHINGTON DC

UNCLAS SECTION 01 OF 03 MEXICO 003513

SIPDIS

DEPT FOR DRL/AWH AND ILSCRO AND WHA/MEX, USDOL FOR ILAB

E.O. 12958: N/A

TAGS: [ELAB](#) [ECON](#) [PGOV](#) [PHUM](#) [PINR](#) [SOCI](#) [MX](#)

SUBJECT: SPANISH TELCOM APPEARS TO SUSPEND CODE OF CONDUCT
IN MEXICO

1. SUMMARY: The largest single call center operation in Mexico is a subsidiary of the Spanish telecommunication company Telefonica. The Spanish company's Mexican subsidiary, Q&Atento MexicoQ8, employs over 18,000 workers located in 15 call centers. Telefonica corporate literature prominently highlights its worker friendly policies as detailed in its Code of Conduct and embodied in the agreements it has signed with Union Network International and two Spanish trade union confederations. The stated aim of these agreements is to establish an international framework to regulate the company's operations in other countries. Its Code of Conduct notwithstanding, there is credible information that Telefonica's subsidiary, Atento, is engaged in a systematic effort to violate basic labor rights to its Mexican employees. These violations include such things as the denial of the right to freedom of association, workplace discrimination and flagrant breaches of local labor laws. Moreover, the Atento Mexico workers claim a dubious collective bargaining agreement has been imposed on them without their consent. This agreement is being administered, with tacit GOM concurrence, by a fugitive from justice. Atento's alleged abuses have been reported to GOM labor authorities but thus far no action has been taken. Given the variance between Telefonica's Code of Conduct and the plausible reports of its employment practices in Mexico it may be appropriate to raise these matters with the company's parent office in Spain. END SUMMARY.

BACKGROUND

2. Most unionized telephone or telecommunications workers in Mexico belong to the Telephone Workers Union of the Mexican Republic (STRM). The few telephone workers or telecommunications unions who do not belong to the STRM nevertheless look to it for advice and support. According to a report done by the STRM there are more than 215,000 call center workstations in Mexico located in 21,000 companies, which have created over 305,000 jobs. These figures represent 30 percent of the workstations in Latin America. The annual rate of growth of this business in Mexico is 21 percent, a rate higher than the rest of Latin America (14.5 percent), and much higher than the global average of 4 percent.

3. In Mexico the largest single call center company is Q&Atento MexicoQ8. Atento is a privately-held corporation that is a subsidiary of the Spanish telecommunications company, Telefónica. Atento (of which Atento Mexico is only a

part) operates in more than ten countries with a labor force of more than 100,000 workers. AtentoQ,s second largest operation is in Mexico where the company employs 18,000 workers. Its largest operation is in Brazil with 60,000 workers.

TELEFONICA HIGHLIGHTS ITS CODE OF CONDUCT

¶4. TelefonicaQ,s 2007 Corporate Responsibility Report goes into great detail about the companyQ,s Code of Conduct. One of the main points stressed in that report is how, to date, Telefonica has trained some 36,000 people throughout its global operations on the principles of its Code of Conduct. Moreover, the Report stresses that Telefonica runs various initiatives to clarify its policies on responsible advertising, child protection, data protection, environmental management and (of most significance in Mexico) compliance with ethical standards. The companyQ,s Code of Conduct is based on a 2000 agreement signed with Union Network International and two Spanish trade union confederations, the General Union of Workers and the Worker Commissions.

¶5. The preamble to the Spanish companyQ,s Code of Conduct specifically states that its principles would be applied Q&to maintain trade union and workers rights in all Telef"nica activities world wideQ8. Among the principles enumerated in the Code of Conduct are such things as equal pay for equal work, a guarantee of freedom of association, a right to collective bargaining, the right to organize without fear of reprisals and a guarantee of minimum wages and benefits consistent with national legislation or agreements.

MEXICO 00003513 002 OF 003

ATENTO APPARENTLY INGORES RIGHT TO ORGANIZE

¶6. Telefonica is clearly a profitable enterprise and its written corporate Code of Conduct is admirable. However, according to the above mentioned STRM report and several workers who spoke directly with Mission MexicoQ,s Labor Counselor, TelefonicaQ,s local subsidiary, Atento Mexico is not implementing a labor policy consistent with the Spanish companyQ,s stated claims and written Code of Conduct. In fact, the available information suggests that Atento is doing everything possible to ignore its parent companyQ,s Code of Conduct.

¶7. The roots of Atento MexicoQ,s apparent deviation from TelefonicaQ,s Code of Conduct can be found in a contract it signed with a Q&protectionQ8 union. Protection unions in Mexico are labor organizations that exist only on paper who enter into collective bargaining agreements without either the knowledge or consent of the workers they purport to represent. In AtentoQ,s case the company entered into a collective bargaining agreement with a union known as the Progressive Trade Union of Workers of Communications and Transport of Mexico (SPTCTRM).

¶8. According to the STRM, none of the more than 100 workers interviewed for its report were aware that they were represented by SPTCTRM or covered by a union contract. The workers have never received a copy of their contract, nor has any worker ever seen a union representative in the workplace. Workers attempting to organize against the SPTCTRM obtained a copy of their contract when STRM downloaded it from the website of the GOMQ,s Secretariat of Labor (STPS). The contract has subsequently been removed from the STPSQ, website. (Comment: The SPTCTRM is controlled by Ramon Salvador Gamez Martinez. Gamez Martinez has a long history of using violence to break independent union organizing campaigns and is currently a fugitive from justice fleeing charges of child molestation. A union contact unrelated to the STRM confirmed for Labor Counselor that Gamez Martinez fled Mexican law enforcement authorities when a police raid

of his office discovered video tapes of his illegal activities with minors.)

¶9. Reportedly, the Atento contract with SPTCTRM barely meets the minimum worker protections required by Mexican law, and in some cases puts the worker at a clear disadvantage in relation to the company. The contract's apparent purpose is to prevent workers from exercising their right to freedom of association in violation of ILO Convention 98, Article 2, which prohibits acts designed to promote the establishment of workers' organizations under the domination of employers. The SPTCTRM contract also violates Article 2 of Telefonica's Code of Conduct which affirms the company's recognition that all workers will enjoy the right to form and join unions.

¶10. Article 2 of Telefonica's Code of Conduct notwithstanding Atento's actions in Mexico is not limited to signing a dubious collective bargaining. It also allegedly engages in a campaign of harassment and intimidation against workers attempting to exercise their right to organize. At least 40 Atento workers have been fired for organizing activities and then harassed by a private security firm when they filed lawsuits against the company seeking reinstatement in their jobs. Several of the fired workers report being called at home and threatened by persons who identified themselves as company representatives.

MINIMUM WAGE, EQUAL PAY FOR EQUAL WORK?

¶11. Atento uses two strategies to avoid complying with Mexican law with respect to wages. The first strategy involves basing wages on commission -- the amount a worker earns depends on the number of sales that he/she completes in a week. This system eliminates access to other benefits such as a productivity bonus. The second strategy involves arbitrarily reducing the salary rate. This is done by deducting social security benefits based on a putative salary of between 750 and 900 pesos (USD 75-90) per month, well below what even its questionable collective bargaining

MEXICO 00003513 003 OF 003

agreement with SPTCTRM establishes. As a result of these practices, Atento workers take home only between 2000 and 3500 pesos (USD 200-350) per month, well below the 4,500 peso minimum established in the collective bargaining agreement. If one assumes that the contract with SPTCTRM is valid then the legal minimum wage for Atento workers under that accord would be the rate established by that agreement.

¶12. In addition to the above infractions Atento also uses forms of recruitment that violate the Telefonica Code of Conduct policy of equal pay for equal work. Atento does this by subcontracting to personnel recruitment using three additional but different names: Atento SA de C.V., Atento Servicios S.A. de S.V., and Atento Mexicana. Although the work done by employees of each of these companies is the same their salaries vary significantly depending on who their employer is. The Atento workers who spoke with Labor Counselor indicated that it was not unusual to have employees doing the same job at workstations right next to each other but with each earning vastly different salaries. Interestingly, according to these workers, Atento's solution to this situation was to fire the higher paid workers as soon as legally possible and then hire new staff to replace them at a lower wage.

COMMENT

¶13. The information presented to Mission Labor Counselor by STRM and the fired Atento Mexico workers appears credible. Consequently, it may be appropriate to follow-up in some way by highlighting the variance between Telefonica's Code of Conduct and the plausible reports of Atento's employment practices in Mexico with the company's parent office in

Spain.

Visit Mexico City's Classified Web Site at

<http://www.state.sgov.gov/p/wha/mexicocity> and the North American
Partnership Blog at <http://www.intelink.gov/communities/state/nap/>

GARZA